

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 14, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF#10MD-118  
Maui

After-the-Fact Consent to Assign Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28466, William H. Pickett, Assignor, to Paul and Eileen Arsenault, Assignee and Amendment of Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28466, Kawaipapa, Hana, Maui, Hawaii, Tax Map Key:(2) 1-3-007: Portion of 001.

APPLICANT:

William H. Pickett, as Assignor, to Paul and Eileen Arsenault, Husband and Wife, as Tenants by Entirety, as Assignees.

LEGAL REFERENCE:

Section 171-13 and 36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kawaipapa, Hana, Maui Hawaii, identified by Tax Map Key: (2) 1-3-007: Portion of 001, as shown on the attached map labeled Exhibit (A). Exhibit (B) is the Meets and Bounds description of the subject easement area for CFS Map No. 20,042. Exhibit (C) CSF Map No. 20,042.

AREA:

2,633 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ☐ NO ☒

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access egress and ingress purposes only.

REMARKS:

By Land Patent (Grant) No. 9324 dated August 25, 1927, the Territory of Hawaii sold a 5,650 square foot parcel of government land situate at Kawaipapa, Hana, Maui, identified as Tax Map Key (2) 1-3-007:002. The land was conveyed without an expressed provision giving the purchaser authority to use portion of parcel 001 for right-of-way purposes. Parcel 002 was technically land locked. The owners later encountered problems in the sale of their property. Accordingly, they asked that the State recognize and acknowledge their right to use this right-of-way as it always had served as a means to gain access.

The Land Board at its July 13, 1984 meeting, under agenda Item F-5, authorized the direct sale of a perpetual, non-exclusive access easement over and across a portion of the subject government lands at Kawaipapa, Hana, Maui to Mr. and Mrs. Richard Levin. The Levins then sold Parcel 2 to Mr. William H. Pickett. Accordingly, the Land Board at its September 28, 1984 meeting, under agenda Item F-10, amended its prior action by replacing the applicant from Mr. and Mrs. Levins with Mr. Pickett.

Warranty Deed signed by Mr. Pickett on June 20, 2008 and recorded at the Bureau of Conveyances under document number 2008-111488 on July 11, 2008, conveyed tax map key: (2) 1-3-007:002 to Paul Arsenault and Eileen Arsenault.

Later Mr. and Mrs. Arsenault learned that any rights granted by Mr. Pickett for the State easement required prior written consent of the Board of Land and Natural Resources. Mr. and Mrs. Arsenault are now requesting the Board's consent.

Staff is also recommending the easement document be amended to allow for it to "run with the land". Newer easements now issued by the State have such a provision. All that is required is the grantee is required to inform his successor of our liability insurance requirement when the easement is sold. This eliminates needless paperwork and time by the Board, staff, Attorney General's office, grantee, private attorneys, escrow companies, etc.

RECOMMENDATION:      That the Board

- A.      Consent to the assignment of Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28466 from William H. Pickett, as Assignor, to Paul and Eileen Arsenault, as Assignee, subject to the following:

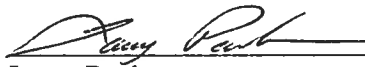
October 14, 2010

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Amend Grant of Non-Exclusive Easement Bearing Land Office Deed No. S-28466 to include the following condition:

“The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 1-3-7:2, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement.

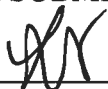
1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Larry Pacheco  
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson







STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

August 16, 1984

C.S.F. No. 20,042

PERPETUAL NON-EXCLUSIVE ACCESS EASEMENT

Kawaipapa, Hana, Maui, Hawaii

Being a portion of the Government Land of Kawaipapa.

Beginning at the south corner of this easement and at the west corner of Grant 9324 to (Mrs.) Emma Kilinahe Kai, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUAIKI" being 2918.45 feet North and 1615.14 feet West, thence running by azimuths measured clockwise from True South:-

1. 114° 00' 10.00 feet along the remainder of the Government Land of Kawaipapa;
2. 204° 00' 124.59 feet along Grant 1982 to Kahanadui et al, to a 4-inch concrete monument (found);
3. 147° 56' 141.08 feet along Grant 8237 to Haiku Fruit and Packing Company, Ltd.;
4. 304° 10' 24.81 feet along Grant 3016 to Kanehoa;
5. 327° 56' 124.38 feet along the remainder of the Government Land of Kawaipapa;
6. 24° 15' 129.53 feet along Grant 9228 to Ikaia Kilinahe Kaleo and Grant 9324 to (Mrs.) Emma Kilinahe Kai to the point of beginning and containing an AREA OF 2633 SQUARE FEET.

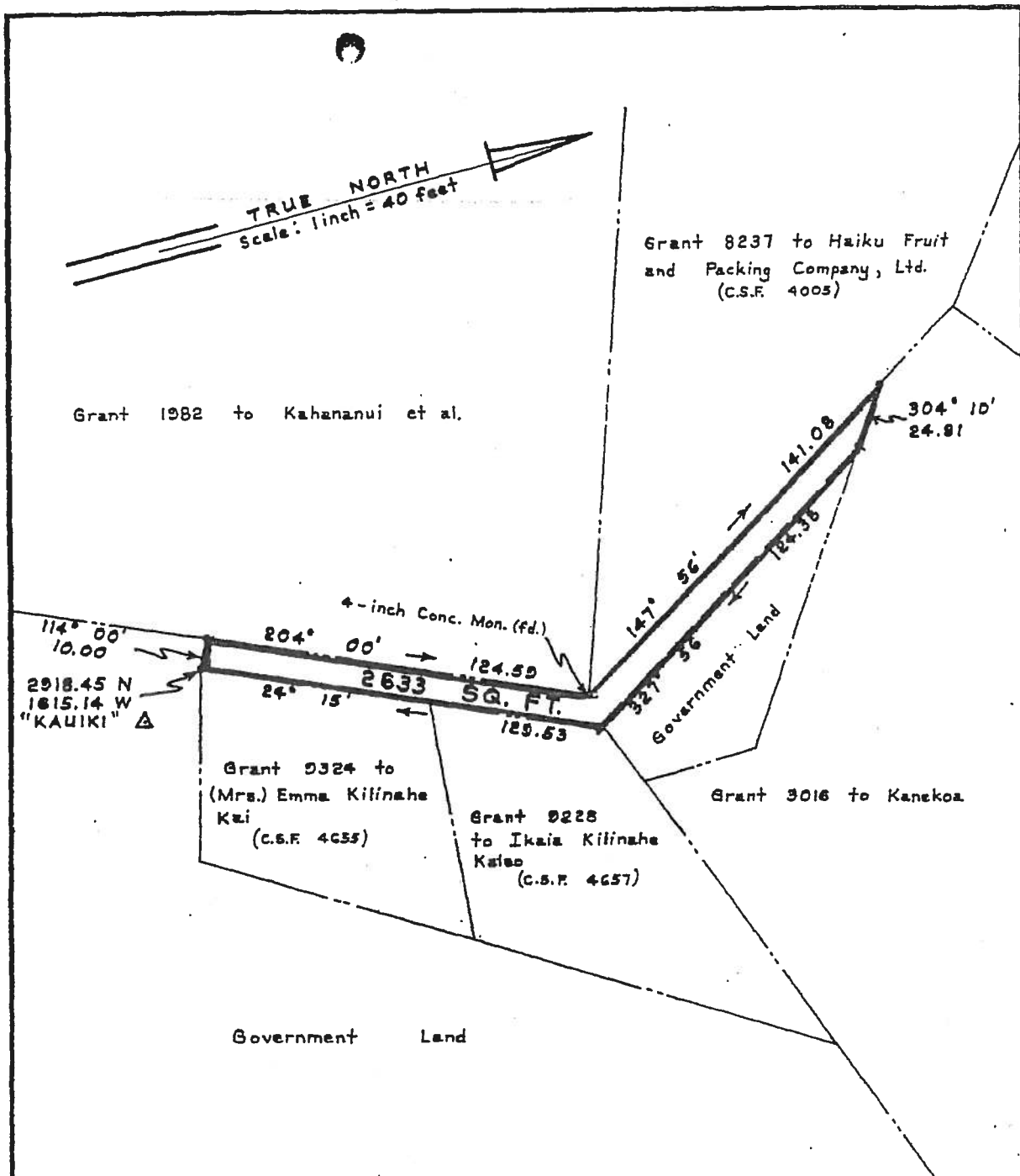
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Stanley J. Hasegawa  
Stanley J. Hasegawa  
Land Surveyor

pt

Compiled from survey by  
Randall Sherman, CSF  
4005, 4655, 4657, 13,149  
and Govt. Survey Records.

Exhibit B



# PERPETUAL NON-EXCLUSIVE ACCESS EASEMENT

Kawaipapa, Hanalei, Maui, Hawaii

Scale: 1 inch = 40 feet

REDUCED  
NOT TO SCALE

**EXHIBIT "C"**

JOB No. - 245 (84)  
C.B.K. FUJITA S, Pg. 82

TAX MAP 1-3-07: Per.]

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

C. S. F. No. 20, 042

STATE OF HAWAII

H.F. Aug. 16, 1984